

AMENDED IN ASSEMBLY APRIL 20, 2016

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 2251**

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**Introduced by Assembly Member Mark Stone**

February 18, 2016

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An act to amend Section 22000 of, to amend the heading of Division 9 (commencing with Section 22000) of, and to add Chapter 3.5 (commencing with Section 22660) to Division 9 of, *add Division 12.5 (commencing with Section 28100) to the Financial Code*, relating to student loan servicers.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2251, as amended, Mark Stone. Student loan servicers: licensing and regulation: Student Loan Borrower's Bill of Rights.

~~(1) The California Finance Lenders Law~~

*(1) Existing law establishes the Department of Business Oversight as headed by the Commissioner of Business Oversight who, among other things, generally provides for the licensure and regulation of persons who are engaged in various consumer financial businesses, including, but not limited to, the business of making consumer or commercial loans by the Commissioner of Business Oversight, as specified, and makes a willful violation of its provisions a crime: loans.*

*This bill would expand the California Finance Lenders Law and the authority of the commissioner to include enact the Student Loan Borrower's Bill of Rights providing for the licensure, regulation, and oversight of student loan servicers engaging in the servicing of student education loans for student loan borrowers, as those terms are defined,*

~~and would rename the law the California Finance Lenders Law and Student Loan Borrower's Bill of Rights.~~ *by the commissioner.* The bill would prohibit a person from acting as a student loan servicer without a license, unless exempt from the licensing ~~requirement.~~ *requirement and would require a licensee to provide specific services to a student loan borrower.* The bill would require a person applying for a license to, among other things, pay an unspecified fee to pay the actual costs for the investigation of the application and to sign the application under penalty of perjury. By expanding the scope of the crime of ~~perjury and the basis for a violation of the California Finance Lenders Law,~~ *perjury*, this bill would impose a state-mandated local program. The bill would specify the basis for the commissioner to deny, revoke, or suspend a license that includes, among other basis, a failure to comply with an investigation by the commissioner. The bill would make legislative findings in support of its provisions.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Student loan debt is a national crisis. More than 40,000,000
- 4 people in the United States owe some amount of student
- 5 educational loan debt. Total student educational debt in the United
- 6 States currently exceeds \$1.2 trillion, surpassing both the amount
- 7 of credit card debt and car loans. With college costs continuing to
- 8 rise, student educational debt continues to rise, and there is no
- 9 reduction in sight.
- 10 (b) While California's financial aid programs are some of the
- 11 strongest in the nation and our state's college graduates have among
- 12 the lowest educational debt burdens, California students and
- 13 graduates still incur significant debt. According to ~~The College~~
- 14 Institute for College Access & Success, 55 percent of California's
- 15 graduating class of 2014 has student educational loan debt.

1 According to the United States Department of Education, as of  
2 January 2015, there were approximately 4,156,00 student  
3 educational loan borrowers in California, and the total student  
4 educational loan debt outstanding for Californians was  
5 approximately \$1.2 billion.

6 (c) Student educational loan debt is a hindrance on the state's  
7 economy, preventing borrowers from achieving financial  
8 independence, buying property, and starting businesses.

9 (d) Student educational loan servicers administer student loans,  
10 serving as a critical link between borrowers and lenders in  
11 managing accounts, processing payments, and communicating  
12 directly with borrowers. Despite this critical relationship, according  
13 to the federal Consumer Financial Protection Bureau (CFPB), there  
14 are no consistent, marketwide federal standards for student  
15 educational loan servicing.

16 (e) The CFPB released a report in September 2015 that found  
17 that student educational loan borrowers encounter servicers that  
18 discourage borrower-friendly alternative payment plans, fail to  
19 respond to questions and payment processing errors, and fail to  
20 provide sufficient information to borrowers regarding payments,  
21 benefits, interest rates, and other charges.

22 (f) It is the intent of the Legislature to promote all of the  
23 following:

24 (1) Meaningful access to federal affordable repayment and loan  
25 forgiveness benefits.

26 (2) Reliable information about student educational loans and  
27 loan repayment options.

28 (3) Quality customer service and fair treatment.

29 ~~SEC. 2. The heading of Division 9 (commencing with Section~~  
30 ~~22000) of the Financial Code is amended to read:~~

31  
32 ~~DIVISION 9. CALIFORNIA FINANCE LENDERS LAW~~  
33 ~~AND THE CALIFORNIA STUDENT LOAN BORROWER'S~~  
34 ~~BILL OF RIGHTS~~

35  
36 ~~SEC. 3. Section 22000 of the Financial Code is amended to~~  
37 ~~read:~~

38 ~~22000. This division is known and may be cited as the~~  
39 ~~"California Finance Lenders Law and the California Student Loan~~  
40 ~~Borrower's Bill of Rights."~~

1     ~~SEC. 4. Chapter 3.5 (commencing with Section 22660) is added~~  
2     ~~to Division 9 of the Financial Code, to read:~~

3  
4     ~~CHAPTER 3.5. CALIFORNIA STUDENT LOAN BORROWER'S BILL~~  
5     ~~OF RIGHTS~~

6  
7     ~~SEC. 2. Division 12.5 (commencing with Section 28100) is~~  
8     ~~added to the Financial Code, to read:~~

9  
10     ~~DIVISION 12.5. CALIFORNIA STUDENT LOAN~~  
11     ~~BORROWER'S BILL OF RIGHTS~~

12  
13     ~~22660.~~

14     ~~28100.~~ For the purposes of this chapter, the following terms  
15 shall have the following meanings:

16     (a) "Control" means the possession, directly or indirectly, of  
17 the power to direct, or cause the direction of, the management and  
18 policies of a licensee under this chapter, whether through voting  
19 or through the ownership of voting power of an entity that  
20 possesses voting power of the licensee, or otherwise. Control is  
21 presumed to exist if a person, directly or indirectly, owns, controls,  
22 or holds 10 percent or more of the voting power of a licensee or  
23 of an entity that owns, controls, or holds, with power to vote, 10  
24 percent or more of the voting power of a licensee. No person shall  
25 be deemed to control a licensee solely by reason of his or her status  
26 as an officer or director of the licensee.

27     (b) "Department" means the Department of Business Oversight.

28     (c) "Engage in the business" means, without limitation, servicing  
29 student education loans, including, but not limited to, the  
30 dissemination to the public, or any part of the public, by means of  
31 written, printed, or electronic communication or any  
32 communication by means of recorded telephone messages or  
33 spoken on radio, television, or similar communications media, of  
34 any information relating to the servicing of student loans.

35     (d) "In this state" includes any activity of a person relating to  
36 servicing a student education loan that is directed to a person  
37 residing in the state.

38     (e) "Licensee" means a person licensed under this chapter.

39     (f) "Person" means a natural person, a sole proprietorship, a  
40 corporation, a partnership, a limited liability company, an

1 association, a trust, a joint venture, an unincorporated organization,  
2 a joint stock company, a government, or a political subdivision of  
3 a government, and any other entity.

4 (g) *“Qualified written request” means a written correspondence*  
5 *made by a student loan borrower, other than notice on a payment*  
6 *medium supplied by the student loan servicer, transmitted by mail,*  
7 *facsimile, or electronically through an email address or Internet*  
8 *Web site designated by the student loan servicer to receive*  
9 *communications from student loan borrowers that does all of the*  
10 *following:*

11 (1) *Enables the student loan servicer to identify the name and*  
12 *account of the student loan borrower.*

13 (2) *Includes, to the extent applicable, either of the following:*

14 (A) *Sufficient detail regarding the information sought by the*  
15 *student loan borrower.*

16 (B) *A statement of the reasons for the belief of the student loan*  
17 *borrower that there is an error regarding the account of the student*  
18 *loan borrower.*

19 ~~(g)~~

20 (h) *“Servicing” means any of the following activities:*

21 (1) *Receiving any scheduled periodic payments from a student*  
22 *loan borrower pursuant to the terms of a student education loan.*

23 (2) *Applying the payments of principal and interest and other*  
24 *payments with respect to the amounts received from a student loan*  
25 *borrower, as may be required pursuant to the terms of a student*  
26 *education loan.*

27 (3) *Performing other administrative services with respect to a*  
28 *student education loan.*

29 ~~(h)~~

30 (i) *“Student education loan” means any loan primarily for*  
31 *personal use to finance education or other school-related expenses.*

32 ~~(i)~~

33 (j) *“Student loan borrower” means either of the following:*

34 (1) *A person who is resident of the state who has received or*  
35 *agreed to pay a student education loan.*

36 (2) *A person who is a resident of the state who shares*  
37 *responsibility for repaying a student education loan with a person*  
38 *described in paragraph (1).*

39 ~~(j)~~

1 (k) “Student loan servicer” means, to the extent authorized by  
2 federal law, ~~an entity or~~ a person, wherever located, responsible  
3 for the servicing of a student educational loan for a student loan  
4 borrower. ~~“Student loan servicer” shall not include a bank or credit~~  
5 ~~union.~~

6 ~~22660.5. A licensee shall provide a student loan borrower with~~  
7 ~~all of the following:~~

8 ~~(a) Accurate information about all the student education loan~~  
9 ~~repayment options applicable to the student loan borrower.~~

10 ~~(b) Quality customer service and fair treatment.~~

11 ~~(c) Complete and accurate information on federal affordable~~  
12 ~~repayment and loan forgiveness benefits applicable to the student~~  
13 ~~loan borrower.~~

14 ~~22660.10:~~

15 ~~28102.~~ (a) A person shall not act as a student loan servicer,  
16 directly or indirectly, without a license from the commissioner  
17 pursuant to this chapter.

18 (b) Notwithstanding subdivision (a), the following persons are  
19 exempt from the licensing requirement in subdivision (a):

20 (1) A bank, trust company, insurance company, or industrial  
21 loan company doing business under the authority of, or in  
22 accordance with, a license, certificate, or charter issued by the  
23 United States or any state, district, territory, or commonwealth of  
24 the United States that is authorized to transact business in this  
25 state.

26 (2) A federally chartered savings and loan association, federal  
27 savings bank, or federal credit union that is authorized to transact  
28 business in this state.

29 (3) A savings and loan association, savings bank, or credit union  
30 organized under the laws of this or any other state that is authorized  
31 to transact business in this state.

32 (4) A wholly owned service corporation of a savings and loan  
33 association or savings bank organized under the laws of this state  
34 or the wholly owned service corporation of a federally chartered  
35 savings and loan association or savings bank that is authorized to  
36 transact business in this state.

37 (c) A person shall file an application for a license under this  
38 chapter with the commissioner to engage in servicing student  
39 education loans as a student loan servicer in this state.

1 (d) A licensee shall not engage in servicing a student education  
2 loan as a student loan servicer under a name other than the name  
3 that appears on a license.

4 (e) The commissioner may promulgate regulations on the  
5 business activity that may be conducted at a location where a  
6 licensee engages in servicing student education loans to prohibit  
7 the conduct of business activity that facilitates evasions of the  
8 purposes of this chapter.

9 (f) A licensee shall make available to the commissioner all of  
10 the licensee's records pertaining to servicing a student educational  
11 loan for a student loan borrower, including, but not limited to, all  
12 books, accounts, papers, and files, regardless of the location of  
13 those records, within 10 calendar days of a request from the  
14 commissioner.

15 ~~22660.15.~~

16 28104. (a) The commissioner shall issue a license to a person  
17 to engage in business as a student loan servicer if all of the  
18 following requirements have been met:

19 (1) The person filed a complete application for a license in a  
20 form prescribed by the commissioner.

21 (2) The person signed the application under penalty of perjury.

22 (3) The person made a payment of (\_\_\_\_) as a reasonable fee  
23 to pay the actual costs for the department to investigate the  
24 application.

25 (4) The department has completed an investigation of the  
26 application.

27 (b) Upon reasonable notice and opportunity to be heard, the  
28 commissioner may deny an application of a person to engage in  
29 business as a student loan servicer for any of the following reasons:

30 (1) The person made a false statement of a material fact on the  
31 application.

32 (2) The person or an officer, director, general partner, or other  
33 person owning or controlling, directly or indirectly, 10 percent or  
34 more of the outstanding interests or equity securities of the person  
35 applying for the license has, within the last 10 years of the date of  
36 application, committed any act involving dishonesty, fraud, or  
37 deceit, or been convicted of, or pleaded nolo contendere to, a crime  
38 substantially related to the qualifications, functions, or duties of a  
39 person engaged in the business of servicing student education  
40 loans.

1 (3) The person or an officer, director, general partner, or other  
2 person owning or controlling, directly or indirectly, 10 percent or  
3 more of the outstanding interests or equity securities of the person  
4 applying for the license has violated any provision of this chapter.

5 (c) The commissioner shall, within 60 days from the filing of  
6 a full and complete application for a license, including the receipt  
7 of background and investigative reports from the Department of  
8 Justice or other government agencies, and the payment of required  
9 fees, either grant a license pursuant to this chapter or provide a  
10 written explanation for the denial.

11 (d) The proceedings for a denial of a license shall be conducted  
12 in accordance with Chapter 5 (commencing with Section 11500)  
13 of Part 1 of Division 3 of Title 2 of the Government Code.

14 ~~22660.20.~~

15 ~~28106.~~ (a) A license shall remain in effect until the license is  
16 either suspended or revoked by the commissioner or surrendered  
17 by the licensee. The commissioner may suspend or revoke a license  
18 issued under this chapter if the commissioner finds that the licensee  
19 violated any provision of this chapter or if any fact or condition  
20 exists which, if it had existed at the time of the initial application  
21 for the license, clearly would have warranted a denial of the license.  
22 ~~The commissioner shall not refund a license fee if the license is~~  
23 ~~surrendered, revoked, or suspended prior to the expiration of the~~  
24 ~~period for which it was issued.~~

25 (b) A licensee that ceases to engage in the business regulated  
26 by this chapter and desires to no longer be licensed shall inform  
27 the commissioner in writing and, at that time, surrender the license  
28 and all other indicia of license to the commissioner. The licensee  
29 shall file a plan for the withdrawal from regulated business, and  
30 the plan shall include a timetable for the disposition of the business.  
31 The plan shall also include a closing audit, review, or other  
32 agreed-upon procedures performed by an independent certified  
33 public accountant prescribed by rule or order of the commissioner.  
34 Upon receipt of the written notice and plan, the commissioner shall  
35 review the plan and, if satisfactory to the commissioner, shall  
36 accept the surrender of the license. A license is not surrendered  
37 until its tender is accepted in writing by the commissioner after a  
38 review, and a finding has been made on the licensee's plan required  
39 to be filed by this section, and a determination has been made that  
40 there is no violation of this chapter.



1 (c) The licensee shall notify the commissioner, in writing, of  
2 any change in the information provided in the application for a  
3 license, as applicable, not later than 10 business days after the  
4 occurrence of the event that results in the information becoming  
5 inaccurate.

6 (d) The commissioner may deem an application for a license  
7 abandoned if the applicant fails to respond to any request for  
8 information required by the commissioner or department during  
9 an investigation of the application. The commissioner shall notify  
10 the applicant, in writing, that if the applicant fails to submit  
11 responsive information no later than 60 days after the date the  
12 request for information was made, the application shall be deemed  
13 abandoned. An application filing fee paid prior to the date an  
14 application is deemed abandoned shall not be refunded.  
15 Abandonment of an application pursuant to this subdivision shall  
16 not preclude the applicant from submitting a new application and  
17 fee for a license.

18 (e) A licensee shall only engage in business as a student loan  
19 servicer at the place of business on the license. A change of location  
20 of a place of business of a licensee shall require prior written notice  
21 to the commissioner. Only one place of business shall be authorized  
22 to engage in business under a license. A license shall not be  
23 transferable or assignable.

24 ~~22660.25.~~

25 28108. (a) A licensee shall do all of the following:

26 (1) Maintain staff adequate to meet the requirements of this  
27 chapter, as prescribed by regulation or order of the commissioner.

28 (2) File with the commissioner any report required by regulation  
29 or order of the commissioner.

30 (3) Comply with the provisions of this chapter, and with any  
31 regulation or order of the commissioner.

32 (4) Submit to periodic examination by the commissioner as  
33 required by this chapter.

34 (5) Advise the commissioner by amendment to its application  
35 of any material judgment filed against, or bankruptcy petition filed  
36 by, the licensee within five days of the filing.

37 (6) Comply with all applicable state and federal laws and tax  
38 return filing requirements.

39 (7) Comply with any other requirement established by regulation  
40 or order of the commissioner.

1 ~~(b) The commissioner may require an applicant to submit a~~  
2 ~~statement signed under penalty of perjury agreeing to comply with~~  
3 ~~the requirements of this section.~~

4 *(8) Provide information on an Internet Web site concerning*  
5 *affordable repayment and loan forgiveness options that may be*  
6 *available to the student loan borrower and provide, at least once*  
7 *per calendar year, a written correspondence or email outlining*  
8 *those options, if applicable.*

9 *(9) Appoint a single point of contact for a student loan borrower*  
10 *wanting any of the following:*

11 *(A) Ability to enter into an agreement for, resolution on an issue*  
12 *concerning, or general information about, a repayment option that*  
13 *requires subsequent submission of supporting documentation.*

14 *(B) Modification of the terms of repayment of the student*  
15 *education loan because of hardship.*

16 *(10) If the sale, assignment, or other transfer of the servicing*  
17 *of a student education loan results in a change in the identity of*  
18 *the party to whom the student loan borrower is required to send*  
19 *payments, or direct any communications concerning the student*  
20 *education loan to, then the student loan servicer selling, assigning,*  
21 *or otherwise transferring the servicing shall notify the student loan*  
22 *borrower in writing at least 45 days before a student loan borrower*  
23 *is required to send a payment on the student education loan all of*  
24 *the following:*

25 *(A) The identity of the new student loan servicer.*

26 *(B) The name and address of the new student loan servicer to*  
27 *whom subsequent payments or communications is required to be*  
28 *sent.*

29 *(C) The telephone numbers and Internet Web sites of the new*  
30 *student loan servicer.*

31 *(D) The effective date of the sale, assignment, or transfer.*

32 *(E) The date on which the current student loan servicer will*  
33 *stop accepting payments on the student education loan.*

34 *(F) The date on which the new student loan servicer will begin*  
35 *accepting payments on the student education loan.*

36 *(11) Respond to a qualified written request by acknowledging*  
37 *receipt of the request within five business days and within 30*  
38 *business days provide, to the extent possible, by providing*  
39 *information relating to the request and the applicable action the*  
40 *student loan servicer will take to correct the account or an*

1 *explanation for the reasons the student loan servicer believes the*  
2 *account of the student loan borrower is correct.*

3 *(12) Unless otherwise directed by the student loan borrower of*  
4 *a student education loan, upon receipt of a payment, the student*  
5 *loan servicer shall apply amounts in excess of the minimum*  
6 *payment amount first to the interest and fees owed on the payment*  
7 *due date, next to the principal balance of the student education*  
8 *loan balance bearing the highest annual percentage rate, and then*  
9 *to each successive interest and fees and principal balance bearing*  
10 *the next highest annual percentage rate, until the payment is*  
11 *exhausted. A student loan borrower may instruct or expressly*  
12 *authorize the student loan servicer to apply excess payments in a*  
13 *different manner. A student loan borrower may also voluntarily*  
14 *increase the periodic payment amount by, including, but not limited*  
15 *to, increasing his or her recurring electronic payment with the*  
16 *right to return to their original amortization schedule at any time.*

17 ~~(e)~~

18 *(b) The commissioner may revoke or suspend a license for a*  
19 *licensee's failure to comply with the requirements of section.*

20 ~~22660.30.~~

21 ~~28110.~~ (a) A licensee shall not do any of the following:

22 (1) Directly or indirectly employ any scheme, device, or artifice  
23 to defraud or mislead a student loan borrower.

24 (2) Engage in any unfair or deceptive practice toward any  
25 student loan borrower or misrepresent or omit any material  
26 information in connection with the servicing of a student education  
27 loan, including, but not limited to, misrepresenting the amount,  
28 nature or terms of any fee or payment due or claimed to be due on  
29 a student education loan, the terms and conditions of the student  
30 education loan agreement, or the student loan borrower's  
31 obligations under the student education loan.

32 (3) Obtain property of a student loan borrower by fraud or  
33 misrepresentation.

34 (4) Knowingly misapply or recklessly apply payments made by  
35 a student loan borrower to the outstanding balance of a student  
36 education loan.

37 (5) Knowingly or recklessly provide inaccurate information to  
38 a credit bureau regarding a student loan borrower.

39 (6) Fail to report both the favorable and unfavorable payment  
40 history of the student loan borrower to a nationally recognized

1 consumer credit bureau at least annually if the loan servicer  
2 regularly reports information to a credit bureau.

3 (7) Refuse to communicate with an authorized representative  
4 of the student loan borrower who provides a written authorization  
5 signed by the student loan borrower, provided the licensee may  
6 adopt procedures reasonably related to verifying that the  
7 representative is in fact authorized to act on behalf of the student  
8 loan borrower.

9 (8) Negligently or intentionally make any false statement or  
10 knowingly and willfully make any omission of a material fact in  
11 connection with any information or reports filed with the  
12 commissioner, the department, or another governmental agency.

13 (b) The commissioner may revoke or suspend a license for a  
14 licensee's failure to comply with the requirements of section.

15 ~~22660.35.~~

16 28112. (a) The commissioner shall have the authority to  
17 conduct investigations and examinations as follows:

18 (1) For purposes of initial licensing, license suspension, license  
19 revocation, or general or specific inquiry or investigation to  
20 determine compliance application requirements, the commissioner  
21 may access, receive, and use any books, accounts, records, files,  
22 documents, information, or evidence, including, but not limited  
23 to, any of the following relating to the business of servicing student  
24 education loans:

25 (A) Criminal, civil, and administrative history information.

26 (B) Personal history and experience information, including, but  
27 not limited to, independent credit reports obtained from a consumer  
28 credit reporting agency.

29 (C) Any other documents, information, or evidence that the  
30 commissioner deems relevant to the inquiry or investigation  
31 regardless of the location, possession, control, or custody of those  
32 documents, information, or evidence.

33 (2) For the purposes of investigating violations or complaints  
34 arising under this chapter against a licensee or person, the  
35 commissioner may direct, subpoena, or order the attendance of  
36 and examine under oath all persons whose testimony may be  
37 required about the student education loan or account of the student  
38 loan borrower.

39 (b) In making any examination or investigation authorized by  
40 this section, the commissioner may control access to any documents

1 and records of the licensee or person under examination or  
2 investigation. The commissioner may take possession of the  
3 documents and records or place a person in exclusive charge of  
4 the documents and records in the place where they are usually  
5 kept. During the period of control, no person shall remove or  
6 attempt to remove any of the documents and records except  
7 pursuant to a court order or with the consent of the commissioner.  
8 Unless the commissioner has reasonable grounds to believe the  
9 documents or records of a licensee or person have been, or are at  
10 risk of being, ~~altered~~ *altered*, or destroyed for purposes of  
11 concealing a violation of this chapter, the licensee or owner of the  
12 documents and records shall have access to the documents or  
13 records as necessary to conduct its ordinary business affairs.

14 *28114. (a) If it appears to the commissioner that a licensee is*  
15 *violating or failing to comply with any law of this state, the*  
16 *commissioner may direct the licensee to comply with the law by*  
17 *an order issued under the commissioner's official seal, or if it*  
18 *appears to the commissioner that any licensee is conducting its*  
19 *business in an unsafe or injurious manner, the commissioner may,*  
20 *in like manner, direct it to discontinue the unsafe or injurious*  
21 *practices. The order shall require the licensee to show cause before*  
22 *the commissioner, at a time and place to be fixed by the*  
23 *commissioner, as to why the order should not be observed.*

24 *(b) If, upon any hearing held pursuant to subdivision (a), the*  
25 *commissioner finds that the licensee is violating or failing to*  
26 *comply with any law of this state or is conducting its business in*  
27 *an unsafe or injurious manner, the commissioner may make a final*  
28 *order directing it to comply with the law or to discontinue the*  
29 *unsafe or injurious practices. A licensee shall comply with the*  
30 *final order unless, within 10 days after the issuance of the order,*  
31 *its enforcement is restrained in a proceeding brought by the*  
32 *licensee.*

33 *28116. (a) The commissioner may issue an order suspending*  
34 *or revoking a license, or taking possession of and placing a*  
35 *licensee in receivership, if after notice and an opportunity for*  
36 *hearing, the commissioner finds any of the following:*

37 *(1) The licensee is violating this division, a regulation adopted*  
38 *or an order issued under this division, or a condition of approval*  
39 *issued under this division.*

1     (2) *The licensee does not cooperate with an examination or*  
2 *investigation by the commissioner.*

3     (3) *The licensee engages in fraud, intentional misrepresentation,*  
4 *or gross negligence in servicing a student education loan.*

5     (4) *The competence, experience, character, or general fitness*  
6 *of the licensee, or any director, officer, employee, or person in*  
7 *control of a licensee, indicates that it is not in the public interest*  
8 *to permit the student loan servicer to continue to providing*  
9 *servicing of student education loans.*

10    (5) *The licensee engages in an unsafe or unsound practice.*

11    (6) *The licensee is insolvent, suspends payment of its obligations,*  
12 *or makes a general assignment for the benefit of its creditors.*

13    (7) *Any fact or condition exists that, if it had existed at the time*  
14 *when the licensee applied for its license, would have been grounds*  
15 *for denying the application.*

16    (b) *In determining whether a licensee is engaging in an unsafe*  
17 *or unsound practice, the commissioner may consider the size and*  
18 *condition of the licensee's provision of student education loan*  
19 *servicing, the magnitude of the loss, the gravity of the violation of*  
20 *this division, and the previous conduct of the persons involved.*

21    28118. *The commissioner may assess a civil penalty against*  
22 *a person that violates this division or a regulation adopted or an*  
23 *order issued pursuant to this division in an amount not to exceed*  
24 *one thousand dollars (\$1,000) for each violation or, in the case*  
25 *of a continuing violation, one thousand dollars (\$1,000) for each*  
26 *day or part thereof during which the violation continues, plus this*  
27 *state's costs and expenses for the investigation and prosecution*  
28 *of the matter, including, but not limited to, reasonable attorney's*  
29 *fees.*

30    ~~SEC. 5.~~

31    SEC. 3. No reimbursement is required by this act pursuant to  
32 Section 6 of Article XIII B of the California Constitution because  
33 the only costs that may be incurred by a local agency or school  
34 district will be incurred because this act creates a new crime or  
35 infraction, eliminates a crime or infraction, or changes the penalty  
36 for a crime or infraction, within the meaning of Section 17556 of  
37 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

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